

Notice of Allowability

Application No.

10/820,115

Examiner

Binta M Robinson

Applicant(s)

DUNCAN ET AL.

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to The IDS filed 4/7/04.
2. ☒ The allowed claim(s) is/are 1-34.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4/7/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 12/1/04
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joy Goudie on 12/1/04.

The application has been amended as follows:

- A. In claim 1, line 6, the phrase "wherein R is an alkyl;" is deleted. The phrase "wherein R and R¹ is an alkyl;" is added in its place.
- B. In claim 2, page 12, line 1, the phrase "comprises combination" is deleted.
- C. In claim 4, line 1, page 12, the term "occurs" is deleted. The phrase "is" is added in its place.
- D. In claim 5, line 1, page 12, the term "combination" is deleted and the term "reaction" is added in its place.
- E. In claim 6, line 2, page 12, the phrase "are combined" is deleted and the term "react" is added in its place.
- F. In claim 7, the term "combination" is deleted. The phrase "reaction mixture" is added in its place.
- G. In claim 11, line 1, page 13, the phrase "any one of" is deleted.
- H. In claim 12, line 1, page 13, the term "comprises" is deleted. The phrase "is selected from the group consisting of" is added in its place.

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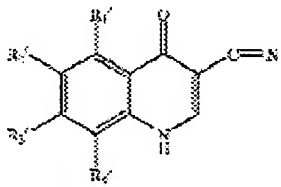
- I. In claim 13, line 1, page 13, the term "comprises" is deleted. The term "is" is added in its place.
- J. In claim 16, lines 1-2, page 13, the phrase "t-butylcyanoacetate comprises about 1.5 to about 2.0 equivalents." Is deleted. The phrase "t-butanol is about 1.5 to about 2.0 equivalents of t-butylcyanoacetate" is added in its place.
- H. In claim 18, line 1, the term "comprises" is deleted. The phrase "is selected from" is added in its place.
- I. In claim 19, line 1, the term "comprises" is deleted. The phrase "is selected from" is added in its place.
- J. In claim 20, line 1, page 14, the term "comprises" is deleted. The phrase "is" is added in its place.
- K. In claim 23, line 1, page 14, the term "comprises" is deleted. The phrase "is selected from" is added in its place.
- L. In claim 24, line 1, page 14, the term "comprises" is deleted. The phrase "is selected from" is added in its place.
- M. In claim 25, line 1, page 14, the term "comprises" is deleted. The phrase "is selected from" is added in its place.
- N. In claim 28, line 1, page 14, the term "comprises" is deleted. The phrase "is selected from" is added in its place.
- O. In claim 29, line 1, the term "comprises" is deleted. The phrase "is selected from" is added in its place.

P. In claim 31, line 1, page 15, the term "comprises" is deleted. The term "is" is added in its place.

Reasons For Allowance

The IDS filed 4/7/04 has been considered and does not read on nor render obvious the claimed subject matter.

The closest prior art reference is Wissner et. al. (See Reference A). The difference between the Wissner process compound and the instantly claimed process condensation step b. In the instant process, the compound of formula II is condensed with t-butycyanoacetate to obtain an intermediate compound of formula III which is used in obtaining the final product of 3-cyano-6-alkoxy-7-nitro-4-quinoline. In the Wissner process, the compound of formula II is reacted with CH₃CN to obtain the



intermediate

which is used in synthesizing the final product 3-cyano-6-alkoxy-7-nitro-4-quinoline.

The prior art reference does not teach nor suggest to one of ordinary skill in the art how to modify the prior art process to derive the instant process. Therefore, claims 1-34 are allowable therefrom.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binta M. Robinson whose telephone number is (571) 272-0692. The examiner can normally be reached on M-F (9:30-6:00).

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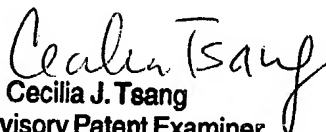
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562.

A facsimile center has been established. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machine are (703)308-4242, (703)305-3592, and (703)305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)-272-1600.

A handwritten signature in black ink, appearing to be 'BMR', followed by a horizontal line.

BMR
December 10, 2004


Cecilia J. Tsang
Supervisory Patent Examiner
Technology Center 1600